

APPEAL NO. 022161
FILED OCTOBER 9, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 1, 2002. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) is not entitled to supplemental income benefits (SIBs) for the sixth quarter. The appellant (carrier) appeals the hearing officer's factual determination that the claimant's unemployment was a direct result of the impairment from the compensable injury, arguing that there is insufficient evidence to support that determination, or alternatively that the determination is contrary to the great weight and preponderance of the evidence. The carrier additionally appeals the hearing officer's finding of fact that during the qualifying period of the sixth quarter the claimant possessed a sedentary ability to work, only to the extent that the finding limits the claimant's ability to work to sedentary duties. In her response, the claimant urges that the direct result findings be upheld. To the extent that the claimant's response could be construed as an appeal of the SIBs entitlement determination, we note that it was untimely and cannot be considered.

DECISION

Affirmed.

It was undisputed that the claimant sustained a compensable injury on _____. The parties stipulated that the claimant reached maximum medical improvement on July 20, 1999, with a 26% impairment rating; that she has not commuted any portion of her impairment income benefits; and that the qualifying period for the sixth quarter began on January 3, 2002, and ended on April 3, 2002. Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102).

The carrier argues that the hearing officer erred by finding that the claimant's unemployment during the qualifying period was a direct result of her impairment from the compensable injury. We have stated that a finding of "direct result" is sufficiently supported by evidence that an injured employee sustained an injury with lasting effects and could not reasonably perform the type of work being done at the time of the injury. Texas Workers' Compensation Commission Appeal No. 950376, decided April 26, 1995; Texas Workers' Compensation Commission Appeal No. 950771, decided June 29, 1995. The functional capacity evaluation concluded that the claimant demonstrated the capacity to perform physical work tasks in the sedentary-light to light category of work and noted that her job prior to the injury required capacities in the medium category of work.

We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to

be clearly wrong and unjust, and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge